IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

Bail Appl..No. 6619 of 2007()

CRIME NO. 360/07 OF MUKKAM POLICE STATION

PETITIONERS/ACCUSED:

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1. MUHAMMED, S/O. UNNIMOYI,
   AGED 38 YEARS, AMBALATHICHALIL HOUSE,
   GOTHAMBU ROAD, PANNIKODE P.O., CALICUT.

2. MR. MUHAMMED @ BABU, S/O.HUSSAINKUTTY,
   AGED 34 YEARS, PUTHIYOTTIL HOUSE, GOTHAMBU ROAD,
   PANNIKODE P.O., CALICUT.

3. MR. ABDU RAHIMAN, S/O. MUHAMMED,
   AGED 50 YEARS, MANCHARATHOTTATHIL, KARASSERI P.O.,
   MUKKAM, CALICUT.

4. MRS. FATHIMA, W/O. LATE UNNIMOYI,
   AGED 65 YEARS, AMBALATHICHALIL HOUSE,
   GOTHAMBU ROAD, PANNIKODE P.O., CALICUT.
   (ALL RESIDING WITHIN THE MUKKAM POLICE STATION
   LIMITS).

BY ADV. SRI.C.VIVEK

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6619 of 2007

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Dated this the 31st day of October, 2007

O R D E R

Application for anticipatory bail. The petitioners are the husband of the defacto complainant and his relatives. They face allegations in a crime registered under Section 498A I.P.C. The crime has been registered on the basis of a complaint filed by the defacto complainant before the learned Magistrate, which complaint was referred to the police by the learned Magistrate under Section 156(3) Cr.P.C. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The marriage had taken place n 1998. The spouses are not blessed with any children. There is strain in the matrimony. On account of such strain, false, vexatious and exaggerated allegations are being raised by the defacto complainant against the petitioners. The petitioners may be granted anticipatory bail, it is prayed.

3. The learned Prosecutor does not oppose the application and I am satisfied that directions under Section 438 Cr.P.C. can be issued in favour of the petitioners. In coming to this conclusion I

take note of the fact that arrest and incarceration of the petitioners is likely to mar all possibilities of reconciliation of marital relationship. I do also take note of the submission of the learned Prosecutor that there is no allegation that the victim/defacto complainant has suffered any external physical injury. Subject to appropriate conditions, anticipatory bail can be granted to the petitioners.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 7.11.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 8.11.07 and 9.11.2007 and thereafter on all Mondays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 7.11.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 7.11.9.2006 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 7.11.2007.

(R. BASANT)
Judge

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